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The Montana Motor Vehicle Recycling and Disposal Program

by William B. Hull



Internal view of what the shielding fence blocks from public view.

Photo courtesy of Montana Department of Health and Environmental Sciences

In Brief

Through passage of the Motor Vehicle Recycling and Disposal Act in 1973, Montana established the first statewide program to recycle junk vehicles. The program has reduced unsightly vehicles and junkyards and has captured valuable scrap metal. The program is relatively simple to implement, making it readily transferable to other states plagued by abandoned vehicles and unsightly junkyards. The Montana Motor Vehicle Recycling and Disposal Program was selected as an innovative state program by the Western Legislative Conference of The Council of State Governments.

Introduction

In 1973, the Montana Department of Health and Environmental Sciences (DHES) produced an information sheet outlining the problems with automobile disposal in the state. The disposal of old motor vehicles had become a serious and intensifying solid waste problem. The DHES estimated as many as 30,000 vehicles were junked each year, adding to those cluttering junkyards, backyards, fields and borrow pits.

No adequate method of disposing of more junk cars existed. Most of the wrecking yards could not handle more cars because the cost of compacting them and transporting them to a shredder was greater than the value of the recycled hulk. Junk cars were not being accepted by sanitary landfills. Consequently, many old cars were left along roadsides, in vacant lots, in fields and backyards. They constituted a growing blight on Montana's landscape.

Automobile graveyards and junkyards were increasing as a result. The Montana State Highway Department conducted a survey in 1966 that revealed 129 automobile disposal sites covering 466 acres. The survey was made along primary highways only, so undoubtedly there were junkyards not counted. A similar survey conducted in 1970 counted 401 sites covering 1,403 acres. This represented an increase of 211 percent in the number of sites and 201 percent in land used for automobile graveyards over the four-year period. Based on the above studies, new junkyards were being added at the rate of 68 per year, consuming an additional 234 acres of land annually.

The increase in land used for automobile disposal represented the expansion of existing yards as well as the opening of new automobile graveyards. The 1970 Highway Department survey noted many old vehicle yards had increased in size by 50 percent, with some doubling in size. Along with the increase in number and size of organized vehicle junkyards and graveyards, there was a concomitant growth in the numbers of old automobiles gathering in vacant lots, backyards and rural fields. Beyond the eyesore of abandoned vehicles across the countryside and in unscreened junkyards, the

accumulation of old vehicles represented a potentially valuable renewable resource being allowed to go to waste.

Under the conditions at the time, Montana citizens were having difficulty locating facilities at which they could dispose of old vehicles. If there were no sellable parts on the carcass, the wrecking yards would not accept it. The legislature had passed a law which prohibited using junk vehicle as riprap to attract fish in lakes, streams and rivers. Citizens were forced to bury vehicles on their own property or abandon them elsewhere. Because citizens had nowhere to properly dispose of junk vehicles, they were being forced into polluting through improper vehicle disposal.

Legislative Background

The automobile disposal plan proposed by the DHES addressed the following issues: the elimination of the visual impact of abandoned and improperly stored junk vehicles, the use of the valuable scrap metal resource represented by junk vehicles, and the reduction of health and safety hazards.

As with any new program, several fundamental problems had to be solved, among them, the need to change the existing law on automobile title registration. Under the law at that time, it was the responsibility of the purchaser to initiate the title transfer. In practice, the purchaser frequently forgot to initiate such transfer. If the vehicle became inoperative and was abandoned, both seller and buyer disclaimed responsibility. With a change in the law, making the seller responsible for the title transfer, the DHES felt it would be easier to determine ownership of an abandoned vehicle.

Authority to control auto wrecking yards and their location was needed. Likewise, the yards needed to be screened from public view and citizens needed access to facilities that would accept junk vehicles regardless of condition.

The DHES was aware that the recycling of scrap autos often was economically unfeasible. The costs of handling vehicles and transporting them to distant shredder facilities often were greater than the scrap value of the auto. An effective automobile recycling program required a subsidy program.

The Motor Vehicle Recycling and Disposal Act (MCA Title 75, Chapter 10, Sub-chapter 501) passed in 1973 after a four-year struggle. In 1969, the Montana Senate passed Resolution 8 directing DHES to study the problem of junk vehicles and propose legislation. Based on the study, Senate Bill 69 was introduced in 1971, but was killed by the Senate Highways and Transportation Committee, largely because it had a proposed \$2 fee. The legislature passed a new bill on March 21, 1973 which took effect July 1 of that year.

The Montana Motor Vehicle Recycling and Disposal Act, commonly referred to as the state junk

vehicle law, and the regulations adopted pursuant to it (Administrative Rules of Montana [ARM], Title 16, Chapter 14, Sub-chapter 2) require all junk vehicles to be shielded from public view and all motor vehicle wrecking facilities to be licensed. The law also provides for the establishment and funding of county junk vehicle programs. Through these 56 county programs, a citizen may have unwanted junk vehicles removed at no charge. The collected vehicles are stored in a county motor vehicle graveyard to await crushing and recycling.

The act has four primary goals:

- remove unsightly, unwanted junk vehicles from the Montana landscape for disposal through recycling;
- ensure that junk vehicles in motor vehicle wrecking facilities and county motor vehicle graveyards, as well as those located in other areas, are properly shielded from public view;
- enforce the provisions of the act and its associated rules for motor vehicle wrecking facilities and county motor vehicle graveyards; and
- provide a continual source of funding through earmarked revenue for counties in the form of annual grants for the operation of junk vehicle programs.

According to the act, "junk vehicle" means a discarded, ruined, wrecked or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains inoperative or incapable of being driven. "Motor vehicle graveyard" means a collection point established by a county for junk motor vehicles prior to their disposal. Finally, a "motor vehicle wrecking facility" (MVWF) refers to a facility buying, selling or dealing in four or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling or substantially changing the form of the motor vehicle. MVWFs include facilities which buy or sell integral second-hand parts or component material thereof, in whole or in part, and deal in second-hand motor vehicle parts.

The act called upon the DHES to adopt rules necessary for the administration of the junk vehicle recycling program, including but not limited to: the establishment, control, operation and licensing of MVWFs and graveyards; the control of junk vehicles in locations other than MVWFs and graveyards; the inspection and evaluation of premises and records subject to or required by the act; the development of budget and fiscal forms and procedures for counties; the review, approval and control procedures for county graveyards; and the shielding of junk vehicles, MVWFs and graveyards from public view.

Implementation and Operation

As the act mandated, the DHES developed regulations (ARM 16-14-2) to implement the statewide motor vehicle recycling program.

A person may not conduct, maintain or operate a MVWF or graveyard without a license issued by the DHES. An annual fee of \$50 is paid to the DHES for the license or quarterly prorated for new facilities. A graveyard is excluded from paying the annual license fee but must meet all other requirements.

Possession at a single location of four or more junk vehicles of a type required to be licensed is *prima facie* evidence that the possessor is operating a MVWF. One to three motor vehicles at one location are handled as follows:

- (1) the junk vehicle(s) may be deposited with the county graveyard,
- (2) if left on the premises, the junk vehicle(s) must be shielded from public view, or
- (3) remove the junk vehicles to a licensed Motor Vehicle Wrecking Facility (MVWF).

Licensing and Records

An application for or renewal of a license to operate a MVWF is made on forms furnished by the DHES. Applications include a statement signed by the appropriate local government official having knowledge of local zoning ordinances certifying that the site of the proposed MVWF does not violate any local government zoning ordinance. If the official refuses to certify that the proposed facility does not violate any local government ordinance and the DHES determines that no zoning ordinance will be violated, the DHES can consider the application.

When the completed application is received, the DHES approves the location before a license is issued. Before an application is approved and a license to operate is issued, the MVWF must be in compliance with the shielding requirements of the act.

When the DHES determines to deny an application for a license, to deny the renewal of a license or to revoke a license, it must notify the applicant or licensee of its intended action. The DHES gives the applicant or licensee the opportunity to submit an acceptable compliance plan within 10 days of receipt of the notification. Upon the failure of the applicant or licensee to submit a compliance plan within the prescribed time or to submit a plan which is acceptable to the DHES, the applicant or licensee is given the opportunity for a hearing on the intent to deny the application or revoke the license.

The DHES may deny, suspend or revoke a MVWF's license when it proves the business:

- (1) sold or otherwise disposed of a motor vehicle, trailer or any part thereof when it knew the vehicle or part was stolen or was appropriated without the consent of the owner;
- (2) committed forgery on a certificate of title covering a vehicle that was reassembled from parts obtained from the disassembling of other vehicles;

(3) committed any illegal act or omission which caused loss as the result of a sale of motor vehicle, trailer or part thereof;

(4) failed to comply with the act or with the rules of the DHES; or

(5) obtained a license fraudulently.

A decision by the DHES to issue, deny or revoke a MVWF or graveyard license may be appealed within 30 days of receipt of official notice of the DHES's decision.

The license, which expires on December 31 of the year issued, must be displayed in a prominent place in the MVWF or graveyard. If a MVWF ceases to do business, the license must be surrendered to the DHES. It is not transferable.

Every MVWF must maintain books or files with a record and description of every junk vehicle obtained, together with the name and address of the person from whom the vehicle was purchased. This record must also contain: the certificate of ownership, sheriff's certificate of sale, notarized bill of sale from the former owner or sheriff's release; the state where the vehicle was last registered; the vehicle make; motor or identification number or serial number; the date purchased; and the disposition of the vehicle.

Quarterly, each MVWF must mail to the Montana Department of Justice a list of all junk vehicles received during the period, stating the year, make and complete identification number of each vehicle. Certificates of ownership received for junk vehicles must accompany the list. The Department of Justice issues a receipt for the certificate if requested by the MVWF, and the receipt serves as an instrument for reclaiming the certificate of ownership if the vehicle is rebuilt.

Facilities Maintenance

All junk vehicles, MVWFs and graveyards must be shielded from public view through the construction or use of fencing or manmade or natural barriers. "Public view" is defined in the act as any point six feet above the surface of the center of a public road from which junk vehicles can be seen. Any shielding barrier must conform to all local zoning, planning, building and protective covenant provisions and any other legal restrictions that may be in effect.

If a facility is on a hill or hillside making it impractical to construct a fence high enough to shield the yard, a series of fences must be used. Fences must be constructed of sound building materials and meet specifications outlined in the regulations. Screening with shrubs and trees, while not subject to precise measurement, must provide a similar degree of shielding throughout the year. Trees and shrubs are best used in conjunction with other shielding materials to improve the appearance of the wrecking facility.

Some MVWFs that existed prior to July 1, 1973 could not be successfully shielded from certain viewpoints (for example, from a public road located at a higher elevation than a facility). In such instances, the DHES decided on a case-by-case basis the degree of shielding necessary.

Fences or other screening materials must be maintained by the facility operator in a neat and workmanlike manner. A maximum of two signs not to exceed 32-square feet each, advertising the business conducted on the premises, may be painted on or attached flush to the fence.

County Programs

Each county acquires, develops and maintains property for free motor vehicle graveyards. The property may be acquired by purchase, lease or other means. As an alternative, the county may contract with a licensed MVWF for the maintenance and operation of a graveyard, or two or more counties may form a district to operate a joint graveyard.

If the county contracts for the establishment, maintenance and operation of its graveyard or for the collection of junk vehicles, a copy of the contract must be furnished to the DHES for prior approval. Failure to operate the free motor vehicle graveyard in accordance with DHES or statutory requirements invalidates the contract. If operated by the county or under contract for the county, the graveyard must be licensed but no fee is required. The graveyard must be operated and maintained in accordance with all requirements applicable to MVWFs.

Each county submits a plan to the DHES for the collection of junk vehicles and the establishment and operation of a graveyard. Each year, prior to June 15, the county must submit a proposed budget to the DHES for the next fiscal year. The budget must cover vehicle collection costs and acquisition, maintenance and operation of the graveyard. Any proposed budgetary changes during a fiscal year must be submitted to the DHES for approval. Currently, an estimated 80 percent of total program expenditures are comprised of funds allocated to the counties.

The DHES pays each county the amount of the approved vehicle collection and graveyard budget. The yearly payment may not exceed \$1 for each motor vehicle under 8,001 pounds gross vehicle weight that is licensed in the county. However, for counties with fewer than 5,000 such motor vehicles, the DHES may pay up to \$5,000, providing the county can justify the payment. Each county must submit an itemized accounting to the DHES for each past fiscal year before approval can be granted for the next fiscal year's budget. County junk vehicle budgets for each fiscal year must be spent or

encumbered (purchase order or signed contract) by June 30; remaining funds must be returned to the state.

Every county graveyard must maintain records on vehicles placed in it, and must submit the records to the DHES on a quarterly basis. A "Motor Vehicle Graveyard Log Sheet" is furnished by the DHES to record this information. A signed title or release must be obtained for each junk vehicle placed in a county graveyard. The title and/or release forms must be submitted to the DHES when the junk vehicles are crushed and removed from the graveyard.

An individual may dispose of a junk vehicle by delivering it to a graveyard and providing the DHES with the certificate or evidence of title or a written release. If a MVWF submits a junk vehicle to the county disposal program, it must pay a \$2 disposal fee and the vehicle is then the property of the state. Each vehicle received by a graveyard is assigned an inventory number, the primary control for monitoring submitted vehicles.

Once a vehicle has been deposited in the graveyard, no salvage is permitted from that vehicle. Whether the graveyard is county-owned and-operated or contracted to a private facility, the hours during which the installation is accessible for vehicle disposal are determined by county needs. The facility must be supervised when open.

The DHES may require periodic reports on the operation of a county graveyard. A DHES representative must have physical access to the facility, its records and operational procedures during reasonable hours of operation. The county commissioners designate a representative to implement and enforce the act and regulations.

Junk vehicles must be placed in an orderly manner within the graveyard site and stacking is permissible providing the vehicles remain shielded from public view. When at least 200 junk vehicles accumulate in the graveyard, the county may notify the DHES for disposal purposes.

The DHES contracts for final disposition of junk vehicles accumulated in graveyards and provides for crushing and recycling the material from the vehicles. The DHES may also contract to dispose of junk vehicles accumulated in a MVWF, but only at the request of the MVWF and only if there is an accumulation of at least 200 vehicles at the facility.

If the DHES can handle the request, the MVWF pays a \$2 disposal fee for each vehicle submitted to the disposal program. At the same time, the MVWF surrenders to the DHES all records maintained on the vehicle. All moneys received from the sale of junk vehicles or from recycling of the material and all MVWF license fees and fees collected as motor vehicle disposal fees are deposited with the state treasurer for the control, collection, recycling and disposal of junk vehicles and component parts.

The 1991 Legislature also provided additional authority to the governing body of the county as it pertains to the issuance of licenses to a MVWF. The governing body of a county in which a MVWF is proposed to be located may adopt a resolution in opposition to the location. If the county formally opposes the application, the Department may not issue a license for that proposed facility.

Enforcement

The DHES, through the state attorney general or the county attorney, may sue to enjoin the operation or maintenance of a MVWF or graveyard either permanently or until it complies with the act, the rules of the DHES or an order issued pursuant to the act. The DHES, through the state attorney general or the county attorney, may sue in district court to collect civil penalties.

A person who willfully violates the act is guilty of a misdemeanor and upon conviction can be fined up to \$250, imprisoned in the county jail for a maximum 30-day term or both. A person who violates the act, a rule of the DHES or an order issued as provided in the act is subject to a maximum civil penalty of \$50.

Recently, the Program has become more enforcement oriented. In one case, the court awarded a judgment against a non-compliant facility of \$72,650.00 coupled with an injunction against operation until the facility is in compliance.

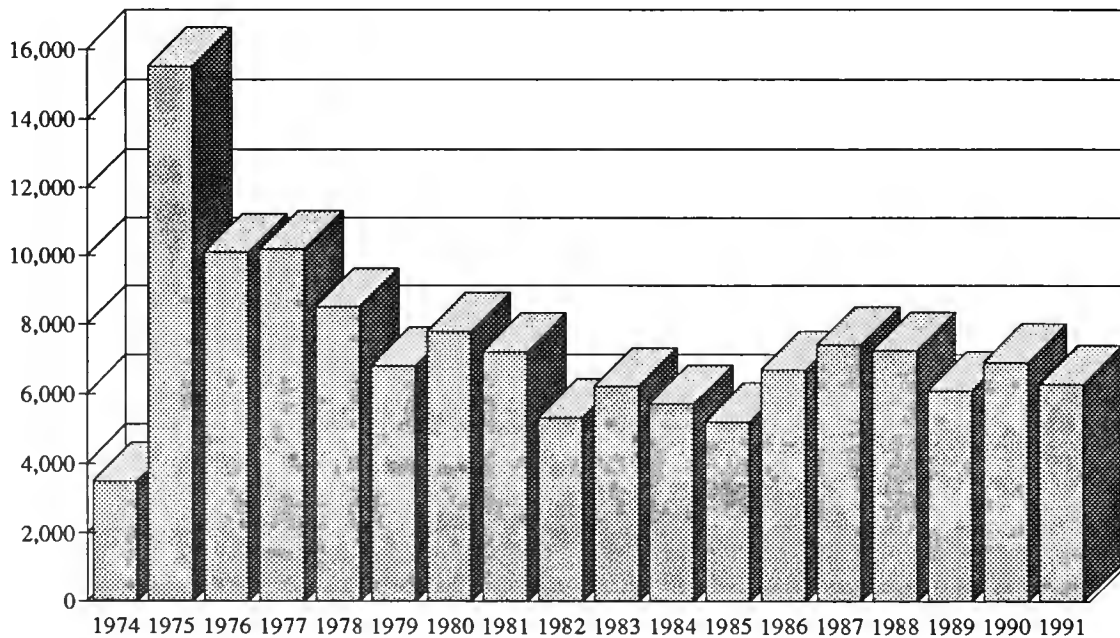
Legislative Reporting

The DHES must report to the state legislature on the status of the motor vehicle recycling and disposal program. In addition to outlining program accomplishments and administration, the DHES reports the revenues collected under the junk vehicle program so that fee adjustments can be made.

According to the DHES fact sheet produced for the 1991 Montana Legislature, the state had 229 licensed and screened MVWFs and 58 county graveyards. Since 1973, more than 126,000 junk vehicles have been collected through the program. These vehicles represent more than 130,000 tons of recycled scrap metal. Although more precise estimates are unavailable, the DHES believes the program has led to significant energy savings and reductions in mining wastes and air and water pollution compared to producing an equivalent amount of steel from primary materials.

As of 1991, counties were collecting more than 130,000 junk vehicles a year, which would otherwise not be recycled and would litter the landscape. In addition to the vehicles recycled since 1973, thousands more have been screened from view or removed by private wrecking facilities through program enforcement efforts. The sale of recycled junk vehicles generates approximately

Figure 1
Junk Vehicles Collected — Fiscal Years 1974-91



Source: Montana Department of Health and Environmental Sciences

\$100,000 annually in state revenue. The number of junk vehicles collected and recycled annually since 1973 is shown in Figure 1.

The Solid and Hazardous Waste Bureau of DHES had 4.59 full-time equivalent (FTE) employees working on the vehicle recycling program, as of 1991. The responsibilities of these personnel include: licensing MVWFs and county graveyards; answering citizen inquiries; providing technical assistance to county programs; issuing crushing contracts; inspecting public and private wrecking facilities; monitoring and auditing county program expenditures; and reviewing and approving all new wrecking facilities. Program responsibilities are conducted by a program officer, an environmental specialist and an audit technician, comprising 2.5 FTE. Administrative and legal support are provided by the remaining FTE.

Each county also has personnel assigned to the junk vehicle program, typically administered by county health departments, road departments or commissioners. The county personnel oversee the free vehicle collection program and enforce the junk vehicle law. In 1991, there were 32 full- or part-time project directors conducting the program at the county level and 48 vehicle retrieval operators, including county personnel and contracted staff. Eleven counties provided clerical staff to assist with the program.

Performance Evaluation

In 1990, Montana's legislative auditor prepared a program performance audit report for the legislature. The objectives of the performance audit were to:

- evaluate program administration, including department and county procedures and responsibilities;
- review management controls related to program operations;
- assess the adequacy of program funding;
- analyze procedures and controls for enforcement of statutes and administrative rules pertaining to junk vehicles; and
- review the process of collecting and disposing of junk vehicles and evaluate the effectiveness of recycling efforts. The audit report recommended improvements in county recycling and enforcement activity, wrecking facility monitoring and enforcement, and program administration.

County Recycling and Enforcement Activity

The DHES inspects graveyards to monitor compliance with the act and regulations. In conducting inspections at 16 of the 57 graveyards during 1988-89, the DHES noted numerous instances of

failure to meet shielding and record maintenance requirements, problems the legislative auditor identified as well.

The auditor felt that the problems with shielding and records maintenance could be addressed through increased DHES enforcement. Through its approval authority over county plans, the DHES can ensure adequate funding to correct shielding noncompliance. The auditor recommended that the DHES enforce county motor vehicle graveyard compliance through the budget approval process. In response, the DHES agreed to establish a goal to increase inspections and correct violations at graveyards.

In addition to the graveyards' failure to meet shielding requirements, the auditor identified problems with vehicle inventory control procedures. DHES records indicated that a number of vehicles submitted to county graveyards had no corresponding signed titles or releases. Similarly, the records revealed that some motor vehicle log sheets did not contain the required vehicle identification information. Finally, several counties were not properly assigning inventory numbers to submitted vehicles.

Proper monitoring of collected vehicles is difficult due to the lack of inventory controls. Poor controls impede the Montana Department of Justice's attempts to prevent the misuse of titles and vehicle identification numbers. Inventory problems have persisted despite efforts by DHES staff to inform graveyard personnel of proper procedures.

The legislative auditor recommended that DHES develop and require the use of standard inventory procedures and release of vehicle ownership forms by the counties to ensure program continuity despite staff turnover.

DHES indicated however, that a standard release of ownership form had been developed for use by the counties. In addition, the department has developed a written, step-by-step, inventory procedure for county personnel.

Finally, the auditor felt that improvements could be made in the DHES procedures for the disposal of junk vehicles collected through the county programs. The number of vehicles collected in a graveyard are included in bid specifications developed by the DHES for contracts to remove and recycle the vehicles. The legislative auditor noted discrepancies between the number of vehicles specified in DHES bids and the number of vehicles actually recycled by the contractors. Additional vehicles were being recycled, with potential loss of revenue to the state.

The legislative auditor recommended that DHES revise contract specifications and procedures to ensure the state is reimbursed for all recycled vehicles. While the DHES felt that the bid process had not resulted in the monetary losses estimated by the auditor, it nonetheless recognized the need to tighten bid procedures. In response, the DHES instituted

changes in the bidding process that allow the state to be reimbursed for any additional vehicles recycled by the contractor.

Wrecking Facility Monitoring and Enforcement

The three primary areas in which MVWFs are required to comply with statutory requirements include: maintenance of inventory records, submission of quarterly reports to the Department of Justice, and facility shielding. Through an audit of 30 MVWFs, the legislative auditor found that 80 percent of the facilities were not in compliance with one or more of these requirements. The legislative auditor felt that the high rate of noncompliance was evidence of needed improvement in monitoring and enforcement by DHES and county personnel. Several factors were identified as contributing to insufficient monitoring and enforcement, including limited DHES staff activity, minimal involvement of county staff, unclear statutes and administrative rules regarding enforcement, current DHES enforcement practices, insufficient controls to ensure the resolution of noncompliance cases on a timely basis, and inadequate communication between DHES staff and county programs. The auditor reviewed each of these issues and made recommendations for program improvements in each area.

The DHES has limited staff with which to conduct field visits to the more than 200 MVWFs statewide. Hence, the DHES relies on county staff to assist with the monitoring and annual inspection of MVWFs. However, the legislative auditor found that approximately 50 percent of the counties do not conduct annual inspections of MVWFs. Without assistance from county staff, it is impossible for DHES staff to thoroughly monitor MVWFs and enforce regulations.

The auditor found that county staff were reluctant to monitor MVWFs and enforce compliance with licensing provisions due to vagueness in statutory authority. While the statute delineates the county's responsibilities in establishing graveyards, submitting plans for collecting junk vehicles and operating graveyards, and submitting operating budgets, it does not clearly state county enforcement responsibilities. The legislative auditor recommended that the DHES seek legislative clarification of the statutes pertaining to state and county enforcement responsibilities. The DHES concurred and agreed to seek clarification during the 1991 legislative session.

The legislative auditor also found that DHES procedures to ensure MVWF compliance needed improvement. The DHES staff traditionally had relied on persuasion rather than strict enforcement to bring MVWFs into compliance and used license denial or revocation only as a last resort. A review of DHES files indicated that staff did not always ensure compliance through sufficient follow-up activity.

The legislative auditor recommended that the DHES take the following steps to improve enforcement controls:

- (1) actively enforce statutes and administrative rules;

- (2) establish controls to ensure compliance concerns are identified, monitored and resolved; and

- (3) implement a data processing system to document enforcement and compliance status.

The DHES indicated that its approach was to use cooperation and persuasion with first-time violations and that changes in DHES personnel had led to some of the compliance problems noted by the auditor. With the clarification of the statutes and subsequent increased involvement of county staff in enforcement activities, DHES felt that enforcement initiation and follow-up would improve.

In response to the auditor's call for a data processing system, the DHES indicated that such a system was near completion. The system will allow the DHES to document enforcement and compliance status for county graveyards as well as MVWFs.

The DHES has the authority to deny, suspend or revoke a MVWF's license for failure to comply with statutes or administrative rules regarding inventory record maintenance, submission of quarterly reports and shielding requirements. However, the legislative auditor found that the DHES regularly renewed licenses for facilities that were not in compliance. Facilities not in compliance were required to submit a compliance plan detailing actions to bring the MVWF into compliance. License renewal was based on DHES approval of the compliance plan before the facility implemented it.

In practice, MVWFs often did not implement the compliance plan, yet continued to operate until the license expired at the end of the year. Sometimes this process would be repeated in subsequent years. The legislative auditor felt that issuing a license valid for the entire year did not provide sufficient incentive for the MVWF to implement the compliance plan. The auditor recommended the DHES implement administrative rules to allow for the issuance of probationary MVWF licenses. The DHES agreed that probationary licenses could improve compliance but was unsure of its statutory authority to issue such licenses. The DHES agreed to explore with legal counsel the possibility of issuing probationary permits.

To assist in monitoring and enforcement activities, county staff indicated to the legislative auditor a need for improved communication with DHES staff. County staff felt that they were not being routinely informed of the status of DHES enforcement activities against MVWFs. Adequate communication of DHES enforcement activities was essential for county staff to provide requested assistance with monitoring of MVWFs.

The DHES felt that communication problems were frequently related to county staff turnover

and poor record keeping by the counties, but agreed that lack of communication could inhibit monitoring of MVWFs by county personnel. The legislative auditor recommended the DHES develop a report on MVWF enforcement status for county-level staff. In response, the DHES indicated that it had developed a report format detailing the enforcement status of each MVWF in a given county. The reports will be issued to the counties in the spring and fall of each year to assist them in MVWF tracking activities.

Program Administration

In the first part of the investigation of program administration, the legislative auditor reviewed the adequacy of funding. The junk vehicle program receives funding from motor vehicle licensing fees, MVWF licensing fees, and the sale of junk vehicles. Approximately 80 percent of total program funding is derived from the first source. The auditor found that expenditures were increasing faster than revenue and that expenditures had exceeded revenues in four of the previous five fiscal years. Figure 2 details revenues, expenditures and the fund balance since the program's inception in 1973.

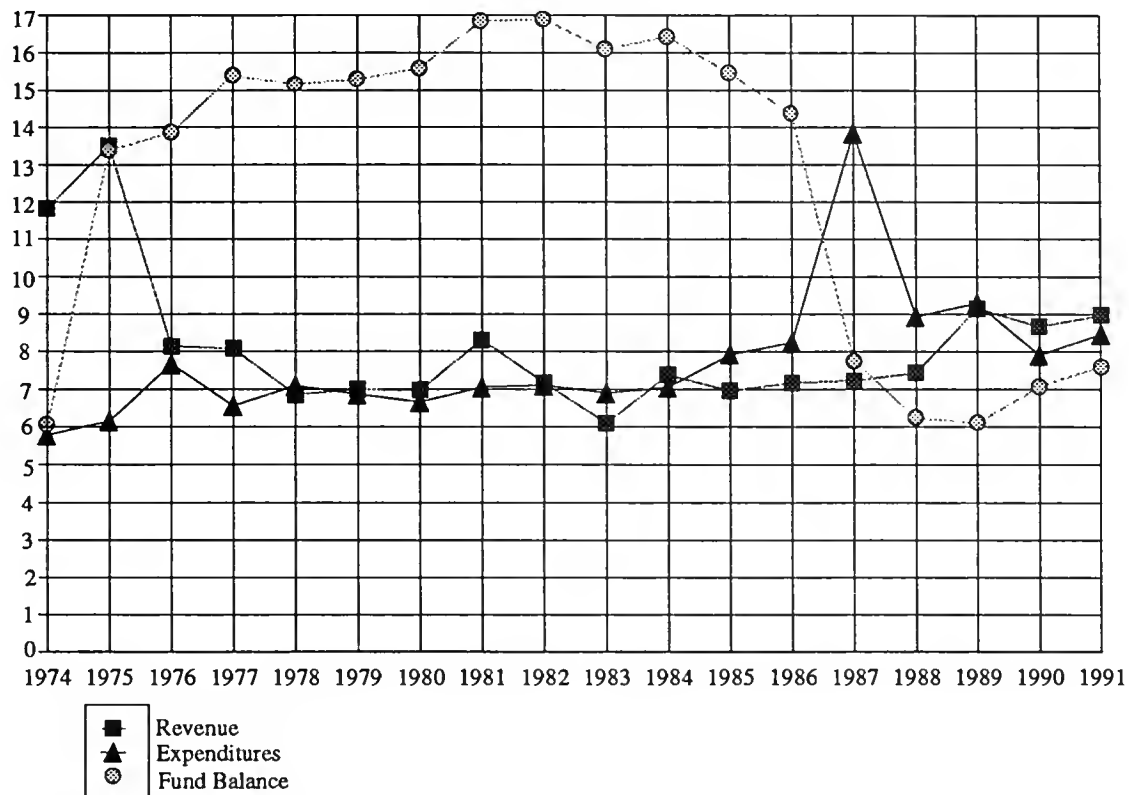
In 1985, the legislature transferred funds from the junk vehicle account to the general fund, substantially reducing the account reserve from which the program was being funded. After vehicle licensing fees, revenue from the sale of junk vehicles was the second largest source of program revenue, accounting for approximately 14 percent of the total. However, scrap prices had fluctuated widely over the past decade making vehicle sales an unpredictable funding source.

Grants from the DHES to the counties to administer the junk vehicle program exceeded the fees generated in the counties in 70 percent of cases. The statute provides counties with up to \$1 per registered vehicle, but junk vehicle disposal fees received are 50 cents for each vehicle registered and \$1.50 for each new vehicle title — the net result being that the state was authorizing expenditures up to \$1 per vehicle, while on average generating only 80 cents per vehicle.

Although the volatility of scrap prices made projections difficult, the auditor estimated that the fund balance might not be able to maintain program expenditures through the 1992-93 fiscal year. Since DHES is required by statute to prepare an overview of the program's fiscal status for each legislature, the auditor recommended the DHES address the issue of fee adjustment in its next report.

The legislative auditor also examined DHES management controls used in administering the junk vehicle program. The report discussed needed improvements in program goals and objectives, policies and procedures, training of county program staff, and inspections of county graveyards.

Figure 2
Fund Balance, Revenues and Expenditures — Fiscal Years 1974-91
 (\$ 100,000)



Source: Montana Department of Health and Environmental Studies

The auditor noted that DHES had not developed specific documented goals and objectives for the program. The goal statements of the act itself did not provide measurable short- and long-term goals and objectives against which to measure program success. Informal DHES goals for the program were neither documented nor formally reviewed.

The auditor recommended the DHES establish specific documented goals and objectives for the junk vehicle program and conduct periodic reviews to determine attainment of the goals. In response, the DHES agreed to establish such goals and objectives, including the findings and recommendations of the legislative auditor's report, and to annually review progress toward goal attainment.

The auditor found that while the program maintained a reference manual containing laws and administrative rules, department legal opinions, examples of forms and letters and budgeting information, specific program policies and procedures were not documented. County personnel were uncertain of their responsibilities and expressed a desire for formal procedures. Lack of formal procedures was leading to inconsistent operations among the county programs

The auditor felt that specific policies and procedures would ensure consistent and accurate performance of program functions by both DHES and county personnel. The DHES had not originally established policies and procedures, allowing the counties latitude in running the programs to meet local needs. In response to the auditor, however, the DHES agreed to establish specific policies and procedures for use by both county and state personnel, as staff time permitting

The auditor's final recommendation addressed the issue of controlling junk vehicles in sites other than MVWFs and county graveyards. These sites do not meet the statutory definition of a MVWF or graveyard — containing less than four vehicles — but the DHES had developed administrative rules to control them. County program staff and county attorneys were often reluctant to enforce the administrative rules due to a perceived lack of statutory authority

The legislative auditor recommended that the DHES seek legislative clarification of statutory provisions pertaining to the regulation of less than four junk vehicles in one location; or delete administra-

tive rules pertaining to their regulation. In response, the DHES contended that it was the intent of the act to regulate less than four vehicles at one site and noted that Montana courts had upheld the administrative rules on this point in numerous past decisions. While the DHES agreed to seek legislative clarification, it argued that removing the administrative rules pertaining to less than four junk vehicles in one location would be a disservice to the people of the state.

While the legislative auditor was critical of some of its components, the program is generally well regarded by the county officials responsible for implementing it. Pete Frazier, county sanitarian for Cascade County, describes the Motor Vehicle Recycling and Disposal Act as "one of the better state laws that has ever been passed." He sees it as an inexpensive program that has substantially solved a large aesthetic problem. He emphasized that enforcing the shielding requirements for MVWFs can be difficult, as the definition of what constitutes adequate maintenance of screening is subject to interpretation.

Private businesses involved in automobile recycling and salvage are also generally supportive of the program. Loretta Miller, secretary of the Montana Automobile Dealers and Recyclers Association (MADRA) said, "Overall, the junk vehicle program works well." For the most part, private recycled parts dealers do not view themselves in competition with the county graveyards. However, MADRA members are resisting any attempt to allow the counties to run their own vehicle auctions and thus directly compete with private dealers. If the county is allowed to conduct such auctions, MADRA wants only salvage operators to be able to bid. The private MVWFs and recyclers support the screening requirements of the law, which they view as important safety and security measures as much as aesthetic improvements.

Other States

Montana appears to have the only statewide comprehensive automobile recycling program in the country. Many states have requirements for the screening of motor vehicle junkyards. Some have spot programs to clean up nuisance junk vehicles. Others have recycling programs on the county level. However, only Montana has a program directly supported by the state and in which county participation is mandatory.

Minnesota

In the 1970s, Minnesota had a statewide automobile recycling program designed to clean up abandoned vehicles. The program was supported by a \$1 surcharge on motor vehicle registration, thereby raising \$800,000 for program administration. The initial stages of the program involved the invento-

ry of junk vehicles and the determination of whether titles to the vehicles could be obtained.

Through the program, the state licensed contractors to collect and transport the junk vehicles. Based on the information of the inventory, contractors placed bids on the junk vehicles. The contractors collected the vehicles, crushed them and sold them for scrap. The program successfully collected and recycled over 100,000 junk vehicles, but was phased out in 1978. Enforcement of county zoning laws largely has taken care of the problem of abandoned vehicles since then.

North Dakota

North Dakota's program to eliminate abandoned automobiles is very similar to Minnesota's former program. The Abandoned Automobile Act, adopted in 1973, established the Abandoned Motor Vehicle Disposal Fund in the state treasury. Moneys in this fund are derived from a \$2 surtax on each initial North Dakota certificate of title issued to passenger and truck motor vehicles and are used to finance the cost of abandoned auto cleanup projects. The plan that evolved calls for units of government to conduct a survey of abandoned vehicles and then contract with scrap iron processors for the collection, reduction and transporting of auto bodies and other bulky scrap metals to smelters or other recycling facilities. The units of government are reimbursed by the state Department of Health and Consolidated Laboratories for both the costs of the surveys and the subsequent amount of the removal contract.

When a unit of government decides there is a need for an abandoned vehicle program, it enters into an agreement with the state department. The agreement stipulates the amount of money that will be reimbursed to the governmental unit to cover the costs of an abandoned motor vehicle survey and an incentive payment to the survey crews. In addition, the agreement ensures that the department will reimburse the unit for the costs of subsequent contracts for removal.

Each participating unit of government appoints a program coordinator or project officer. This individual may be a volunteer, salaried employee or may be hired specifically by the government to conduct the program. The coordinator plans and organizes an areawide survey of abandoned vehicles, monitoring the progress of "spotter crews" to ensure a thorough and complete inventory of released autos within the project area. The coordinator works with community leaders and enlists their support in all phases of the survey, collection and storage. In addition, the coordinator initiates and maintains a publicity program by working through various news media.

The accurate survey of abandoned vehicles is critical to the program's success. The surveyors may

be volunteers or hired private contractors. Contracts help guarantee a complete and accurate survey before payment is made. Local survey costs are reimbursable by the state.

Survey crews obtain signed releases for junked and abandoned vehicles from the vehicle owners whenever possible. The vehicles may be marked with spray paint to aid in identification at collection time. Participation is voluntary, but vehicle owners who do not participate are informed that they may be responsible for vehicle removal at a later date at their own expense.

When the survey is completed, temporary collection sites are established so scrap processors can employ portable crushers economically, sites collect at least 100 junk vehicles. The survey and the signed releases are turned over to an auditor, who can put the inventory up for bid. Contracts with processors require performance bonds and specify completion dates. Local governments are reimbursed by the department for the amount specified in the contract.

After initial cleanup projects, counties and larger municipalities are encouraged to establish permanent collection sites for free disposal of junked and abandoned vehicle hulks to encourage automobile owners not to abandon their vehicles. When enough hulks collect, the county or municipality contracts for a processor to crush and remove them.

California

California law permits counties to establish service authorities for abandoned vehicles and to impose a \$1 fee on registered vehicles. The fees are allocated by the state for service authorities with abandoned vehicle plans approved by the state Highway Patrol. The service authority may adopt an ordinance establishing procedures for the abatement, removal and disposal of abandoned, wrecked, dismantled or inoperative vehicles from public or private property. The authority contracts for removal and disposal of vehicles with a county, city or the state Highway Patrol. The authority's plan must include an estimate of the number of abandoned vehicles located within the county. The plan includes copies of the ordinances adopted by the service authority and an enforcement and disposal strategy.

The plan also includes a strategy for the recovery of costs associated with the administration, removal and disposal of vehicles. It includes copies of contractual agreements to carry out the law and fiscal controls.

The California Highway Patrol will report to the Legislature by Jan. 1, 1996 on the effectiveness of the Abandoned Vehicle Abatement Program. The Highway Patrol requests that each service authority submit quarterly and year-to-date reports on the operation of the program. The reports include the gross amount of money received, an itemized statement of the trust fund moneys expended, the num-

ber of vehicles abated and an assessment of the effectiveness of the local program.

Transferability

The relative simplicity of Montana's Motor Vehicle Recycling and Disposal Program makes it readily transferable to other states. The Montana statute is clear and straightforward, making interpretation easy. However, the DHES staff did mention some difficulties over interpretation of the resulting administrative rules and stressed the need for promulgating regulations that clearly delineate the monitoring and enforcement responsibilities of state and county personnel.

The program has to be tailored to the needs of individual states. The fee structure would likely differ among states, as fees are ideally set to cover program costs and these costs will vary. The program should be sufficiently supported to allow for annual inspection of MVWFs and county facilities to ensure compliance.

A state-supported program of this type makes the most sense for areas that are great distances from shredders and other recycling facilities and for those that are particularly susceptible to price fluctuations in the scrap metal markets. In states with easy access to shredder sites, subsidized programs may not be necessary. While the fee structure should be devised to cover program costs, states should be mindful of the substantial social benefits derived from removing abandoned junk vehicles and from screening MVWFs and county graveyards. The Montana program makes MVWFs the exclusive source of recycled automobile parts. Vehicles in county graveyards may not be scavenged for parts. However, some wrecking facilities may mistakenly feel that the state is unfairly competing with them. Support from MVWFs is important in establishing and implementing the program.

The initial years of the program may prove difficult. The program represents a new service, and citizens need to be informed. In response, the Montana DHES has developed printed educational material regarding the program. Selected public service messages on radio or television also might prove effective.

Finally, states and counties should be prepared for a large influx of previously abandoned vehicles entering county graveyards during the first few years of program implementation. Such an influx makes it difficult to adequately plan for program needs. In subsequent years, as the number of new vehicles entering the graveyards stabilizes, management of the program should become easier.

Conclusion

The Montana Motor Vehicle Recycling and Disposal Program is the only one of its kind in the nation. In operation since 1973, the program has successfully recycled more than 130,000 tons of scrap metal, with savings in energy and a reduction

in environmental degradation compared with steel production from primary materials.

Although in operation 18 years, the county programs continue to collect on average more than 6,200 vehicles per year, many of which would have been abandoned had the program not existed. Junk vehicle sales by the state generate approximately \$100,000 annually. With anticipated adjustments of fees, the program will be self-sufficient into the foreseeable future.

All counties or districts have sited and developed screened and licensed motor vehicle graveyards for the storage of junk vehicles. The county programs provide free vehicle removal services for citizens, ensuring that inoperable vehicles are properly disposed. With changes in the statute and clarification of the respective roles of state and county personnel, the motor vehicle recycling program continues to improve its services to the citizens of Montana.

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